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**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Create a  
Consistent Regulatory Framework for the  
Guidance, Planning and Evaluation of  
Integrated Distributed Energy Resources.

Rulemaking 14-10-003  
(Filed October 2, 2014)

**ADMINISTRATIVE LAW JUDGE'S RULING DENYING WITHOUT PREJUDICE  
THE REQUEST TO REVIEW THE THREE-PRONG FUEL SUBSTITUTION  
TEST IN THIS PROCEEDING**

**Summary**

The February 28, 2017 motion by the Natural Resources Defense Council, Sierra Club, the Solar Energy Industry Association, and the California Energy Efficiency Industry Council, (Moving Parties) requesting the Commission to review the three-prong fuel substitution test through a process in Rulemaking (R.) 14-10-003 is denied without prejudice as to the merits. It is more appropriate to address this motion in an energy efficiency proceeding. The Moving Parties may file a new motion in the energy efficiency rulemaking, R.13-11-005, or a successor proceeding.

**Background**

On February 28, 2017, the Moving Parties<sup>1</sup> filed a motion (Motion) in

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<sup>1</sup> While the Moving Parties include the Natural Resources Defense Council, Sierra Club, the Solar Energy Industry Association, and the California Energy Efficiency Industry Council, the Motion includes support by the following 21 organizations: Association for Energy Affordability, Association of Bay Area Governments, City of Arcata, City of Berkeley, Build It

*Footnote continued on next page*

R.14-10-003 requesting the Commission to review the three-prong fuel substitution test (Test). The Test determines the fuel substitution projects that can be rewarded with utility customer-funded energy efficiency incentives and applies to substitution from natural gas to electricity, and from electricity to natural gas. According to the Moving Parties, the Commission established the Test in the early 1990s when a primary concern was to mitigate the risk of “fuel wars” between utilities in Southern California as energy efficiency programs were ramping up.<sup>2</sup>

The Moving Parties request the Commission address the following three matters:

- 1) Review the Test for utility, clarity, and alignment with Commission policies and California’s climate goals; modify (or remove) the Test and provide detailed guidance on the methodology for conducting the Test.
- 2) Clarify under what conditions the Test must be passed (e.g., for substitution of regulated fuels versus substitution between regulated and unregulated fuels such as propane and wood).
- 3) Provide detailed guidance, with clear example cases, on how projects or programs that include fuel substitution will be assessed using the Commission’s general

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Green, Clean Coalition, Carbon Free Palo Alto, County of Marin, Center for Sustainable Energy, Design AVenues, LLC, Efficiency First California, San Francisco Department of the Environment, Environmental Defense Fund, SolarCity Corporation, Local Government Sustainable Energy Coalition, Sonoma Clean Power, Marin Clean Energy, Sonoma County Regional Climate Protection Authority, Redwood Energy, Union of Concerned Scientists, and University of California Office of the President.

<sup>2</sup> Motion at 2.

cost-effectiveness tests that are required of all distributed energy resource programs.

On March 15, 2017, the following parties each filed a response to the motion: Office of Ratepayer Advocates (ORA), Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), Southern California Gas Company (SoCalGas), and The Utility Reform Network (TURN).

On March 20, 2017, a Ruling was issued requesting the Moving Parties provide additional information. Specifically, the Moving Parties were asked to provide a timeline of the steps that need to be taken to review the Test, and explain why the Test needs to be reviewed now and why a review of the Test could not wait until later, either in the energy efficiency rulemaking or another venue. Parties were invited to reply to the Moving Parties' responses to the March 20, 2017 Ruling.

On March 27, 2017, the Moving Parties' filed a timely response to the March 20, 2017 Ruling. On March 30, 2017, ORA, PG&E, San Diego Gas & Electric Company (SDG&E) and SoCalGas each filed a reply to the Moving Parties' response.

## **Discussion**

This Ruling solely addresses whether R.14-10-003 is the appropriate venue to conduct a review of the Test. The Moving Parties explain that they favor including this topic in R.14-10-003, but defer to the Commission in deciding the most appropriate venue.<sup>3</sup> Proposing that "another possible venue is the Energy Efficiency proceeding" (R.13-11-005), the Moving Parties state that R.13-11-005

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<sup>3</sup> Motion at 8.

encompasses the use of and restrictions on utility customer energy efficiency funds, and underscores that “the topic of fuel substitution was included” in the November 2013 Order Instituting Rulemaking 13-11-005.<sup>4</sup>

The Moving Parties’ argument for reviewing the Test in this proceeding is twofold. First, the Moving Parties contend that the issues surrounding the Test have implications that span beyond energy efficiency and are well-aligned with the current ongoing review of the cost-effectiveness framework in R.14-10-003. Second, the Moving Parties assert that this issue is urgent and addressing the issue in the energy efficiency proceeding would delay the timing of reviewing the Test by at least 12 months.<sup>5</sup>

Regarding whether the Test has implications beyond energy efficiency, the Moving Parties describe the purpose of the Test as determining the fuel substitution projects that can be rewarded with utility customer-funded energy efficiency incentives.<sup>6</sup> The Moving Parties assert that R.14-10-003 is the appropriate venue to address a review of the Test because the goal of the proceeding is to deploy distributed energy resources that provide optimal customer and grid benefits, while enabling California to reach its climate objectives.<sup>7</sup> The Moving Parties argue that the Test is a barrier to this goal because it blocks the deployment of energy efficiency measures that can provide cost-effective grid, customer, and climate benefits. Noting that the scope of the current phase of R.14-10-003 includes unifying the cost-effectiveness

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<sup>4</sup> *Ibid.*

<sup>5</sup> Moving Parties Response, March 27, 2017 at 12.

<sup>6</sup> Motion at 2.

<sup>7</sup> *Id* at 7.

methodologies for different resources, the Moving Parties assert that the Test is a “pernicious inconsistency in the cost-effectiveness framework” and should be reviewed in this proceeding.<sup>8</sup>

The Moving Parties do not provide any evidence that the Test impacts any distributed energy resources other than energy efficiency resources. The scope of R.14-10-003 is focused on the integration of distributed energy resources and includes harmonizing the valuation of distributed energy resources, including cost-effectiveness measures. However, the Test, as described by the Moving Parties, is used solely for energy efficiency resources and therefore does not need to be harmonized with other distributed energy resources. The Moving Parties state that “it is a foundational issue to understand the parameters within which distributed energy resources can be sourced” and therefore a review of the Test is necessary in R.14-10-003. However, given that the Test evaluates substitution between ratepayer-funded gas and electric energy efficiency technologies to determine eligibility for energy efficiency program incentives, it is clear that the test is only for energy efficiency resources and should be reviewed in an energy efficiency-specific proceeding; reviewing it within this proceeding is not necessary to understand the parameters within which distributed energy resources can be sourced.

SoCalGas and SDG&E maintain that any review of the Test should be undertaken in the energy efficiency proceeding.<sup>9</sup> SoCalGas argues that adjusting the Test without a thorough, evidentiary review by stakeholders with energy

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<sup>8</sup> *Ibid.*

<sup>9</sup> See PG&E Response to Motion SDG&E Comments, March 30, 2017 at 1, and SoCalGas Comments, March 30, 2017 at 6-7.

efficiency expertise would not be prudent policy for appropriating ratepayer funds.<sup>10</sup> In its response to the Motion, TURN also cautions the Commission to “carefully determine the best forum for reviewing the Test.”<sup>11</sup> While not opposing the Moving Parties’ suggestion that the Commission consider the review in R.14-10-003, TURN recommends that parties to R.13-11-005, the Energy Efficiency Policy Rulemaking, receive notice and an opportunity to comment before the Commission acts in R.14-10-003. TURN underscores the critical nature of this notice due to the impact on the interests of parties to R.13-11-005 but recognizes that the scope of Phase III is already quite full.<sup>12</sup>

Given that the Test does not have a direct implication on any distributed energy resource other than energy efficiency but has a direct impact on the interests of parties in the energy efficiency rulemaking, the energy efficiency rulemaking is the more appropriate venue to address whether a review of the Test is necessary.

With respect to the urgency of a review of the Test, the Moving Parties assert that a review of the Test should commence immediately in R.14-10-003. The Moving Parties contend that the review must be done immediately because the current test is a barrier to California meeting its greenhouse gas reduction goals and the 50 percent renewables goal established in Senate Bill (SB) 350. Furthermore, because of the number of years it will take to educate customers, work with contractors, etc., provide clear guidance to the utilities so that they can plan for and offer new programs, the Moving Parties surmise that

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<sup>10</sup> SoCalGas Response, March 30, 2017 at 7.

<sup>11</sup> TURN Response to Motion, March 15, 2017 at 3.

<sup>12</sup> *Ibid.*

the Commission must start now to begin “this slow and complex process to decarbonize buildings.”<sup>13</sup>

The Moving Parties provide no explanation of why the Test must be reviewed within the next year, given the SB 350 deadline is 2030. The Moving Parties discuss “years” of work ahead but point to no specific urgency for a review to begin on May 1, 2017, as indicated in its timeline.<sup>14</sup>

It is not appropriate to consider a review of the Test in this proceeding nor is it necessary, based upon urgency, to consider such a review. The Motion is denied, without prejudice to the merits of the need for a review of the Test. The Moving Parties may file a motion to have this issue addressed in the energy efficiency rulemaking, R. 13-11-005, or a successor proceeding.

**IT IS RULED** that that the motion filed by the Natural Resources Defense Council, Sierra Club, the Solar Energy Industry Association, and the California Energy Efficiency Industry Council requesting the Commission review the three-prong fuel substitution test in Rulemaking 14-10-003 is denied without prejudice.

Dated May 5, 2017 at San Francisco, California.

/s/ KELLY A. HYMES  
Kelly A. Hymes  
Administrative Law Judge

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<sup>13</sup> Moving Parties Response, March 27, 2017 at 4.

<sup>14</sup> *Id.* at 11-12.